

AN ORDINANCE TO AMEND CHAPTER 6, ARTICLE IV, OF THE
BLACKSBURG TOWN CODE (1998), AS AMENDED TO REVISE THE PROCESS
AND PROCEDURE OF OBTAINING AND CONDUCTING
RENTAL PROPERTY INSPECTIONS TO CONFORM WITH STATE LAW

WHEREAS, on June 8, 1999, the Council of the Town of Blacksburg adopted Ordinance 1219, which established a residential rental property inspection program in the Town of Blacksburg;

WHEREAS, during its 2004 session, the General Assembly enacted HB828 (codified as Virginia Code §36-105.1), which confirms the Town's authority to inspect residential rental properties, but requires certain amendments to the Town's residential rental property inspection ordinance;

WHEREAS, the Town Council has received and considered the report by town staff, identified as "Town of Blacksburg 2005 Rental Inspection Program Update," which analyzed the condition of residential rental dwelling units in various areas in the Town and proposed a new rental inspection district based on the criteria established by HB828;

WHEREAS, the Town Council hereby adopts this report and finds that, within the proposed rental inspection district identified on the map entitled "Rental Inspection District 2005," a copy of which is attached to this ordinance, the following conditions exist:

- (a) there is a need to protect the public health, safety and welfare of the occupants of dwellings inside the proposed district;
- (b) residential rental dwelling units are in need of inspection by the planning and engineering department to prevent deterioration, taking into account the number, age and condition of residential dwelling units inside the proposed district; and
- (c) the inspection of residential rental dwelling units inside each district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the proposed district.

WHEREAS, the report also identified and analyzed the condition of certain individual residential rental dwelling units outside of the rental inspection district;

WHEREAS, the Town Council hereby finds (a) that there is evidence of violations of the Building Code that affect the safe, decent and sanitary living conditions for tenants living in dwelling units at 600 South Main

Street and 1101 Redbud Road, and (b) that the individual dwelling unit at 1503 Tom's Creek Road is in the process of deteriorating;

WHEREAS, based on the findings about the individual residential rental dwelling units set forth above, the Town Council further finds that these dwelling units should be made subject to the requirements of this rental inspection ordinance; and

WHEREAS, the Town Council has conducted a public hearing on the proposed rental inspection district and the proposed inspection requirement for the individual residential rental dwelling units described above.

THEREFORE, BE IT ORDAINED by the Council of the Town of Blacksburg that:

1. Chapter 6, Article IV, Rental Property Inspections, Blacksburg Town Code

(1998), as amended, is amended and reordained as follows:

Chapter 6
BUILDING REGULATIONS
Article IV. Rental Property Inspections

Sec. 6-400. Findings.

(a) The town council has found that within the rental inspection district established in section 6-402 of this article each of the following conditions exist:

1. There is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the district described and established in section 6-402 below;
2. The residential rental dwelling units in the district are in need of inspection by the building department to prevent deterioration, taking into account the number, age and condition of the residential dwelling rental units inside the district; and
3. The inspection of residential rental dwelling units inside the district is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the district.

The town council has further found that, for each of the individual residential rental dwelling unit described in section 6-402 of this article, one of the following conditions exists:

1. There is a need to protect the public health, welfare and safety of the occupants of that individual dwelling unit;
2. The individual dwelling unit is either blighted or in the process of deteriorating; or
3. There is evidence of violations of the Building Code that affect the safe, decent and sanitary living conditions for tenants living in such individual dwelling unit.

Sec. 6-401. Definitions.

The following terms and phrases, when used in this article, shall have the meanings ascribed to them in this section:

Building code means the Virginia Uniform Statewide Building Code.

Day means a calendar day.

Dwelling unit means a building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household. The term does not include a group home.

Family means one or more persons related by blood, marriage, or adoption, or under approved foster care.

Group home means a licensed residential facility in which no more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance. A group home is licensed by the Commonwealth of Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services.

Managing agent means any person having the authority, singly or in combination with another, to enter into an agreement for the occupancy of property subject to this article.

Multi-family dwelling unit means any single building, lot, or two or more adjacent buildings or lots under common ownership, which contain(s) three or more residential rental dwelling units. The term shall not include mobile homes under common ownership in a mobile home park or subdivision, and such term shall not include single-family dwellings, family homes with accessory apartments, two-family dwellings, or townhouses under common ownership.

Occupant means a person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether he or she spends the majority of nights at a residence, if the times he or she does stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if his or her clothes or other daily living supplies are maintained at the residence.

Owner means the person shown on the current real estate assessment books or current real estate assessment records, or the current fee simple title holder of the property if ownership has changed since tax assessment records were last updated.

Rent means to lease, sublease, let or otherwise grant for consideration the right to occupy a dwelling unit.

Residential rental dwelling unit means a dwelling unit that is leased or rented to one or more tenants.

Sec. 6-402. Applicability.

(a) The provisions of this article shall apply to all rental dwelling units within a rental inspection district designated by town council and to individual residential dwelling units outside designated rental inspection districts made subject to this article, as provided by Virginia Code § 36-105.1:1(B)(3).

(b) A rental inspection district, as shown on the map labeled "Rental Inspection District 2005" and filed in the town clerk's office on June 14, 2005, is hereby established and made subject to the requirements of this article. Maps detailing this rental inspection district shall be available in the department of planning and engineering and on the town's website.

(c) The following individual rental dwelling units that are outside the rental inspection district are hereby made subject to this article:

- (i) 1503 Tom's Creek Road
- (ii) 600 South Main Street
- (iii) 1101 Redbud Road

(d) Town council may designate additional rental inspection districts or make other individual residential rental dwelling units outside the inspection district subject to this article after notice and a public hearing thereon, as provided by Virginia Code §36-105.1:1.

Sec. 6-403. Implementation; notification requirement for owners.

(a) No later than July 31, 2005, the director of planning and engineering or his or her designee shall notify owners of (i) residential rental dwelling units in the designated rental inspection districts and (ii) individual residential dwelling units subject to this article of the adoption of this ordinance and provide information and an explanation of this article and the responsibilities of the owner hereunder.

(b) On or before October 1, 2005, and within 60 days of the transfer of ownership or a change in the managing agent of any residential rental dwelling unit subject to this article, the owner of any dwelling unit within a rental inspection district shall notify the director of planning and engineering in writing if the dwelling unit is used for residential rental purposes. Thereafter, any owner of a dwelling unit in a rental inspection district shall notify the director of planning and engineering in writing when the dwelling unit is used for residential rental purposes. Such notice shall be submitted on a form provided by the planning and engineering department and shall contain the following information: the address and a brief description of the rental dwelling unit; the name, street address and telephone number of the owner of the property; the name, street address and telephone number of the managing agent, if any; the number of people who occupy each dwelling unit, and the family status of the occupants. Such form shall not require the name or social security number of any tenant.

(c) If the director of planning and engineering has reason to believe that an owner has failed to notify the director of a residential rental dwelling unit within a rental inspection district, he or she shall mail a written notice to the owner setting a seven day deadline for compliance. The penalty for the willful failure of an owner of a dwelling unit who is using the dwelling unit for residential rental purposes to comply with the written notification requirement shall be a civil penalty of \$50.00. For purposes of this section, notice sent by regular first class mail to the last known address of the owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed compliance with this requirement.

Sec. 6-404. Rental certificate of compliance required.

No owner or managing agent shall rent or offer to rent a residential rental dwelling unit within a rental inspection district or an individual residential rental dwelling outside a district that is subject to this article without a rental certificate of compliance therefore, issued after a satisfactory

inspection of the property by the building official or his or her designee.

Sec. 6-405. Inspections, generally.

(a) The building official shall cause an inspection to be made of each rental dwelling unit located within a rental inspection district, within four years of the designation of the district for compliance with the provisions of the building code that affect the safe, decent and sanitary living conditions for the tenants of such property. The building official is hereby authorized to establish schedules to accomplish the inspection of dwelling units in different areas within the rental inspection district. The building official shall inspect any individual residential rental dwelling unit that is outside a district within 90 days of the date the dwelling unit is made subject to this article. After such inspection, the owner and the managing agent, if any, will be provided with a list of any violations found and the date by which such violations must be corrected. Following the initial inspection of a residential rental dwelling unit subject to this article, the building official may inspect any residential rental dwelling unit in a rental inspection district, not otherwise exempted, annually.

(b) Upon a determination that a rental dwelling unit is in compliance with the provisions of the existing structures regulations of the Virginia Uniform Statewide Building Code, a rental certificate of compliance shall be issued to the owner. No certificate shall be issued until all inspection fees are paid. The certificate shall be valid for a term of four years. Upon the initial or periodic inspection of a residential rental dwelling unit subject to this article for compliance with the building code the property shall be exempt from this article's inspection requirements for four years, provided there are no building code violations that affect the safe, decent and sanitary living conditions for the tenants of the residential rental dwelling unit. However, upon the sale of a residential rental dwelling unit, the building department may perform a periodic inspection of the dwelling unit. Residential rental dwelling units shall be exempt from the inspection requirement of this article for four years from the date of issuance of a certificate of occupancy for the unit by the department of planning and engineering. Any inspection exemption granted for a rental dwelling unit prior to July 1, 2005, shall be valid for the period as initially granted, unless revoked as provided by section 6-407.

(c) There shall be no fee for the initial inspection required by this article or the first re-inspection. If all violations are not corrected at the time of the first re-inspection, then the fee for the second and any subsequent re-inspection for the original violation shall be \$100.00.

(d) The building official, or his or her duly authorized agent, shall have the right to inspect any rental dwelling unit within a rental inspection

district or other individual residential dwelling units subject to this article at any reasonable time, in order to carry out an inspection required by this section. The owner, managing agent, occupant, or other person in charge of the premises shall permit the building code official, or his or her duly authorized agent, access to any dwelling unit within a rental inspection district or any individual residential dwelling unit subject to this article for the purpose of conducting an inspection authorized by this article. In the event the building official or his or her authorized agent is denied access to a dwelling unit, he or she may apply for an administrative search warrant in order to gain access to the premises.

(e) Nothing in this article shall prohibit an inspection of any residential rental dwelling unit or individual residential dwelling unit subject to this article for a violation of the Virginia Uniform Statewide Building Code, pursuant to a complaint, as required by section 6-201 of this chapter.

(f) The owner or managing agent may appeal the building official's determination of a violation of the building code to the Blacksburg Building Code Board of Appeals.

Sec. 6-406. Initial and periodic inspections of multi-family dwelling units.

(a) If a multi-family development has more than 10 dwelling units, in the initial and periodic inspections, the building official shall inspect not less than two and not more than 10 percent of the dwelling units of that multi-family development, which includes all of the multi-family buildings which are part of that multi-family development. However, no inspection fee shall be charged for more than 10 dwelling units. Two family dwellings and multi-family dwelling units with three to nine dwelling units are not exempt from the inspection requirements of this article.

(b) The inspected dwelling units of a multi-family development shall be selected by the building official. At the time of inspection, no violations of the Virginia Uniform Statewide Building Code shall exist. If the building official determines upon inspection of the sampling of dwelling units that there are violations of the Building Code that affect the safe, decent and sanitary living conditions for the tenants of such multi-family dwelling unit, the building official may inspect as many dwelling units as necessary to enforce the Building Code.

(c) If the dwelling units that are inspected are in compliance with the provisions and all other applicable codes and ordinances, then a rental certificate of compliance shall be issued as provided by section 6-405(b).

(d) Nothing in this section shall serve to exempt the owner, managing agent,

or tenant of a multi-family dwelling unit from compliance with all applicable statutes, laws, and ordinances, including the Virginia Uniform Statewide Building Code.

Sec. 6-407. Revocation of exemption from inspection.

(a) The director of planning and engineering may revoke an inspection exemption granted pursuant to section 6-405(b) upon finding that the residential rental dwelling unit is in violation of the building code during the exemption period.

(b) Before revoking an exemption, the director shall notify the owner, managing agent, and tenant of the violation, in writing, via first class mail, specifying the nature of the violation; establishing a deadline for correction of the violation, which shall be no less than seven and no greater than thirty days; and stating that the exemption will be revoked on a date certain unless the building official's determination of the existence of a building code violation is appealed to the Blacksburg Building Code Board of Appeals. The notice shall also set forth the appeal process as herein established.

Sec. 6-408. Appeal.

(a) The owner, managing agent or tenant may appeal a notice of revocation based upon the Virginia Uniform Statewide Building Code to the Blacksburg Board of Building Code Appeals. Any such appeal shall be filed with the Department of Planning and Engineering within 20 days after the date the notice of violation was served upon the owner or manager, whichever was served first. Section PM111.0 of the Virginia Uniform Statewide Building Code shall apply to any such appeal.

(b) The inspection exemption shall remain in effect pending the resolution of the appeal by the Blacksburg Building Code Board of Appeals.

Sec. 6-409. Violations.

Any person willfully failing to comply with the inspection requirements of this article or the Virginia Uniform Statewide Building Code shall be subject to the penalties established in section 6-203 of this Code, except as specifically provided otherwise.

This ordinance shall be effective on July 1, 2005.